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under § 33.7 of this chapter: *Provided, however*, That a new disclosure statement is not required to be furnished if the futures commission merchant or introducing broker has previously delivered such statement to the foreign options customer in connection with the opening of a commodity option account under part 33 of this chapter.

(e) This section does not relieve a futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor from any other disclosure obligation it may have under applicable law or regulation.

[52 FR 28998, Aug. 5, 1987, as amended at 58 FR 17505, Apr. 5, 1993; 60 FR 38193, July 25, 1995; 63 FR 8571, Feb. 20, 1998; 64 FR 28914, May 28, 1999; 65 FR 47859, Aug. 4, 2000]

§ 30.7 Treatment of foreign futures or foreign options secured amount.

(a) *General.* Except as provided in this section, a futures commission merchant must at all times maintain in a separate account or accounts money, securities and property in an amount at least sufficient to cover or satisfy all of its obligations to 30.7 customers denominated as the foreign futures or foreign options secured amount. In computing the foreign futures or foreign options secured amount, a futures commission merchant may offset any net deficit in a particular 30.7 customer's account against the current market value of readily marketable securities held for the same particular 30.7 customer's account as provided for in paragraph (1) of this section. The amount that must be deposited in such separate account or accounts for 30.7 customers must be no less than the amount required to be held in a separate account or accounts for or on behalf of 30.7 customers pursuant to any law, or rule, regulation or order thereunder, or any rule of any self-regulatory organization authorized thereunder, in the jurisdiction in which the depository or the 30.7 customer, as appropriate, is located.

(b) *Location of 30.7 customer funds.* A futures commission merchant shall deposit the foreign futures or foreign options secured amount under an account name that clearly identifies the funds as belonging to 30.7 customers and

shows that the foreign futures or foreign options secured amount is set aside as required by this part. A futures commission merchant may deposit funds set aside as the foreign futures or foreign options secured amount with the following depositories:

(1) A bank or trust company located in the United States;

(2) A bank or trust company located outside the United States that has in excess of \$1 billion of regulatory capital;

(3) A futures commission merchant registered as such with the Commission;

(4) A derivatives clearing organization;

(5) The clearing organization of any foreign board of trade;

(6) A member of any foreign board of trade; or

(7) Such member's or clearing organization's designated depositories.

(c) *Limitation on holding foreign futures or foreign options secured amount outside of the United States.* A futures commission merchant may not deposit or hold the foreign futures or foreign options secured amount in accounts maintained outside of the United States with any of the depositories listed in paragraph (b) of this section except to meet margin requirements, including prefunding margin requirements, established by rule, regulation, or order of foreign boards of trade or foreign clearing organizations, or to meet margin calls issued by foreign brokers carrying the 30.7 customers' foreign futures and foreign option positions; *Provided, however*, that a futures commission merchant may deposit an additional amount of up to 20 percent of the total amount of funds necessary to meet margin and prefunding margin requirements to avoid daily transfers of funds between the futures commission merchant's 30.7 accounts maintained in the United States and those maintained outside of the United States. A futures commission merchant must deposit 30.7 customer funds under the laws and regulations of the foreign jurisdiction that provide the greatest degree of protection to such funds. A futures commission merchant may not by contract or otherwise

waive any of the protections afforded customer funds under the laws of the foreign jurisdiction.

(d) *Written acknowledgment from depositories.* (1) A futures commission merchant must obtain a written acknowledgment from each depository prior to or contemporaneously with the opening of an account by the futures commission merchant with such depository.

(2) The written acknowledgment must be in the form as set out in appendix E to this part; *Provided, however*, that if the futures commission merchant invests funds set aside as the foreign futures or foreign options secured amount in money market mutual funds as a permitted investment under paragraph (h) of this section and in accordance with the terms and conditions of §1.25(c) of this chapter, the written acknowledgment with respect to such investment must be in the form as set out in appendix F to this part.

(3)(i) A futures commission merchant shall deposit 30.7 customer funds only with a depository that agrees to provide the director of the Division of Swap Dealer and Intermediary Oversight, or any successor division, or such director's designees, with direct, read-only electronic access to transaction and account balance information for 30.7 customer accounts.

(ii) The written acknowledgment must contain the futures commission merchant's authorization to the depository to provide direct, read-only electronic access to 30.7 customer account transaction and account balance information to the director of the Division of Swap Dealer and Intermediary Oversight, or any successor division, or such director's designees, without further notice to or consent from the futures commission merchant.

(4) A futures commission merchant shall deposit 30.7 customer funds only with a depository that agrees to provide the Commission and the futures commission merchant's designated self-regulatory organization with a copy of the executed written acknowledgment no later than three business days after the opening of the account or the execution of a new written acknowledgment for an existing account, as applicable. The Commission must

receive the written acknowledgment from the depository via electronic means, in a format and manner determined by the Commission. The written acknowledgment must contain the futures commission merchant's authorization to the depository to provide the written acknowledgment to the Commission and to the futures commission merchant's designated self-regulatory organization without further notice to or consent from the futures commission merchant.

(5) A futures commission merchant shall deposit 30.7 customer funds only with a depository that agrees that accounts containing 30.7 customer funds may be examined at any reasonable time by the director of the Division of Swap Dealer and Intermediary Oversight or the director of the Division of Clearing and Risk, or any successor divisions, or such directors' designees, or an appropriate officer, agent or employee of the futures commission merchant's designated self-regulatory organization. The written acknowledgment must contain the futures commission merchant's authorization to the depository to permit any such examination to take place without further notice to or consent from the futures commission merchant.

(6) A futures commission merchant shall deposit 30.7 customer funds only with a depository that agrees to reply promptly and directly to any request from the director of the Division of Swap Dealer and Intermediary Oversight or the director of the Division of Clearing and Risk, or any successor divisions, or such directors' designees, or an appropriate officer, agent or employee of the futures commission merchant's designated self-regulatory organization for confirmation of account balances or provision of any other information regarding or related to an account. The written acknowledgment must contain the futures commission merchant's authorization to the depository to reply promptly and directly as required by this paragraph without further notice to or consent from the futures commission merchant.

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(7) A futures commission merchant shall promptly file a copy of the written acknowledgment with the Commission in the format and manner specified by the Commission no later than three business days after the opening of the account or the execution of a new written acknowledgment for an existing account, as applicable.

(8) A futures commission merchant shall obtain a new written acknowledgment within 120 days of any changes in the following:

(i) The name or business address of the futures commission merchant;

(ii) The name or business address of the depository; or

(iii) The account number(s) under which the foreign futures or foreign options secured amount are held.

(9) A futures commission merchant shall maintain each written acknowledgment readily accessible in its files in accordance with §1.31 of this chapter, for as long as the account remains open, and thereafter for the period provided in §1.31 of this chapter.

(e) *Commingling.* (1) A futures commission merchant may commingle the funds set aside as the foreign futures or foreign options secured amount that it receives from, or on behalf of, multiple 30.7 customers in a single account or multiple accounts with one or more of the depositories listed in paragraph (b) of this section.

(2) A futures commission merchant may not commingle the funds set aside as the foreign futures or foreign options secured amount held for 30.7 customers with the money, securities or property of such futures commission merchant, with any proprietary account of such futures commission merchant, or use such funds to secure or guarantee the obligations of, or extend credit to, such futures commission merchant or any proprietary account of such futures commission merchant; *Provided, however,* a futures commission merchant may deposit proprietary funds into 30.7 customer accounts as permitted under paragraph (g) of this section.

(3) A futures commission merchant may not commingle 30.7 customer funds with funds deposited by futures customers as defined in §1.3 of this chapter and held in segregated ac-

counts pursuant to section 4d(a) and 4d(b) of the Act or with funds deposited by Cleared Swap Customers as defined in §22.1 of this chapter and held in segregated accounts pursuant to section 4d(f) of the Act, or with funds of any account holders of the futures commission merchant unrelated to trading foreign futures or foreign options; *Provided, however,* that a futures commission merchant may commingle 30.7 customer funds with funds deposited by futures customers or Cleared Swaps Customers pursuant to the terms of a Commission regulation or order authorizing such commingling.

(f) *Limitations on use of 30.7 customer funds.* (1)(i) A futures commission merchant shall not use, or permit the use of, the funds of one 30.7 customer to purchase, margin or settle the trades, contracts, or commodity options of, or to secure or extend credit to, any person other than such 30.7 customer.

(ii)(A) The undermargined amount for a 30.7 customer's account is the amount, if any, by which

(1) The total amount of collateral required for that 30.7 customer's positions in that account, at the time or times referred to in paragraph (f)(1)(ii)(B) of this section, exceeds

(2) The value of the 30.7 customer funds for that account, as calculated in paragraph (f)(2)(ii) of this section.

(B) Each futures commission merchant must compute, based on the information available to the futures commission merchant as of the close of each business day,

(1) The undermargined amounts, based on the clearing initial margin that will be required to be maintained by that futures commission merchant for its 30.7 customers, at each clearing organization of which the futures commission merchant is a member, at 6:00 p.m. Eastern on the following business day for each such clearing organization less

(2) Any debit balances referred to in paragraph (f)(2)(iv) of this section included in such undermargined amounts.

(C)(1) Prior to 6:00 p.m. Eastern Time on the date of the settlement referenced in paragraph (f)(1)(ii)(B)(1) of this section, such futures commission

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merchant must maintain residual interest in segregated funds that is at least equal to the computation set forth in paragraph (f)(1)(ii)(B) of this section.

(2) A futures commission merchant may reduce the amount of residual interest required in paragraph (f)(1)(ii)(C)(I) of this section to account for payments received from or on behalf of undermargined 30.7 customers (less the sum of any disbursements made to or on behalf of such customers) between the close of the previous business day and 6:00 p.m. Eastern Time on the following business day.

(D) For purposes of paragraph (f)(1)(ii)(B) of this section, a futures commission merchant should include, as clearing initial margin, customer initial margin that the futures commission merchant will be required to maintain, for that futures commission merchant's 30.7 customers, at a foreign broker, and, for purposes of paragraph (f)(1)(ii)(C) of this section, must do so prior to 6:00 p.m. Eastern Time on the date referenced in paragraph (f)(1)(ii)(B)(I) of this section.

(2) *Requirements as to amount.* (i) For purposes of this paragraph (f)(2), the term "account" shall mean the entries on the books and records of a futures commission merchant pertaining to the 30.7 customer funds of a particular 30.7 customer.

(ii) The futures commission merchant must reflect in the account that it maintains for each 30.7 customer the net liquidating equity for each such customer, calculated as follows: The market value of any 30.7 customer funds it receives from such customer, as adjusted by:

(A) Any uses permitted under paragraph (e) of this section;

(B) Any accruals on permitted investments of such collateral under §1.25 of this chapter that, pursuant to the futures commission merchant's customer agreement with that customer, are creditable to such customer;

(C) Any gains and losses with respect to contracts for the purchase or sale of foreign futures or foreign option positions;

(D) Any charges lawfully accruing to the 30.7 customer, including any com-

mission, brokerage fee, interest, tax, or storage fee; and

(E) Any appropriately authorized distribution or transfer of such collateral.

(iii) If the market value of 30.7 customer funds in the account of a 30.7 customer is positive after adjustments, then that account has a credit balance. If the market value of 30.7 customer funds in the account of a 30.7 customer is negative after adjustments, then that account has a debit balance.

(iv) The futures commission merchant must maintain in segregation an amount equal to the sum of any credit balances that 30.7 customers of the futures commission merchant have in their accounts. This balance may not be reduced by any debit balances that the 30.7 customers of the futures commission merchants have in their accounts.

(3) A futures commission merchant may not impose or permit the imposition of a lien on any funds set aside as the foreign futures or foreign options secured amount, including any residual financial interest of the futures commission merchant in such funds.

(4) A futures commission merchant may not include in funds set aside as the foreign futures or foreign options secured amount any money invested in securities, memberships, or obligations of any clearing organization or board of trade. A futures commission merchant may not include in funds set aside as the foreign futures or foreign options secured amount any other money, securities, or property held by a member of a foreign board of trade, board of trade, or clearing organization, except if the funds are deposited to margin, secure, or guarantee 30.7 customers' foreign futures or foreign options positions and the futures commission merchant obtains the written acknowledgment from the member of the foreign board of trade, board of trade, or clearing organization as required by paragraph (d) of this section.

(g) *Futures commission merchant's residual financial interest and withdrawal of funds.* (1) The provision in paragraph (e) of this section, which prohibits the commingling of funds set aside as the foreign futures or foreign options secured amount with the funds of a futures commission merchant, shall not

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be construed to prevent a futures commission merchant from having a residual financial interest in the funds set aside as required by the regulations in this part for the benefit of 30.7 customers; nor shall such provisions be construed to prevent a futures commission merchant from adding to such set aside funds such amount or amounts of money, from its own funds or unencumbered securities from its own inventory, of the type set forth in § 1.25 of this chapter, as it may deem necessary to ensure any and all 30.7 accounts from becoming undersecured at any time.

(2) A futures commission merchant may not withdraw funds, except withdrawals that are made to or for the benefit of 30.7 customers, from an account or accounts holding the foreign futures and foreign options secured amount unless the futures commission merchant has prepared the daily 30.7 calculation required by paragraph (1) of this section as of the close of business on the previous business day. A futures commission merchant that has completed its daily 30.7 calculation may make withdrawals, in addition to withdrawals that are made to or for the benefit of 30.7 customers, to the extent of its actual residual financial interest in funds held in 30.7 accounts, including the withdrawal of securities held in secured amount safekeeping accounts held by a bank, trust company, contract market, clearing organization, member of a foreign board of trade, or other futures commission merchant. Such withdrawal(s) shall not result in the funds of one 30.7 customer being used to purchase, margin or guarantee the foreign futures or foreign options positions, or extend the credit of any other 30.7 customer or other person.

(3) A futures commission merchant may not withdraw funds, in a single transaction or a series of transactions, that are not made for the benefit of 30.7 customers from an account or accounts holding 30.7 customer funds if such withdrawal(s) would exceed 25 percent of the futures commission merchant's residual interest in such accounts as reported on the daily secured amount calculation required by paragraph (1) of this section and computed as of the close of business on the previous busi-

ness day, unless the futures commission merchant's chief executive officer, chief finance officer or other senior official that is listed as a principal of the futures commission merchant on its Form 7-R and is knowledgeable about the futures commission merchant's financial requirements and financial position pre-approves in writing the withdrawal, or series of withdrawals.

(4) A futures commission merchant must file written notice of the withdrawal or series of withdrawals that exceed 25 percent of the futures commission merchant's residual interest in 30.7 customer funds as computed under paragraph (h)(2) of this section with the Commission and with its designated self-regulatory organization immediately after the chief executive officer, chief finance officer or other senior official as described in paragraph (g)(2) of this section pre-approves the withdrawal or series of withdrawals. The written notice must:

(i) Be signed by the chief executive officer, chief finance officer or other senior official that pre-approved the withdrawal, and give notice that the futures commission merchant has withdrawn or intends to withdraw more than 25 percent of its residual interest in accounts holding 30.7 customer funds;

(ii) Include a description of the reasons for the withdrawal or series of withdrawals;

(iii) List the amount of funds provided to each recipient and the name of each recipient;

(iv) Include the current estimate of the amount of the futures commission merchant's residual interest in the 30.7 customer funds after the withdrawal;

(v) Contain a representation by the chief executive officer, chief finance officer or other senior official as described in paragraph (g)(3) of this section that pre-approved the withdrawal, or series of withdrawals, that to such person's knowledge and reasonable belief, the futures commission merchant remains in compliance with the secured amount requirements after the withdrawal. The chief executive officer, chief finance officer or other appropriate senior official as described in paragraph (g)(2) of this section must consider the daily 30.7 calculation as of

the close of business on the previous business day and any other factors that may cause a material change in the futures commission's residual interest since the close of business the previous business day, including known unsecured customer debits or deficits, current day market activity and any other withdrawals made from the 30.7 customer accounts; and

(vi) Any such written notice filed with the Commission must be filed via electronic transmission using a form of user authentication assigned in accordance with procedures established by or approved by the Commission, and otherwise in accordance with instruction issued by or approved by the Commission. Any such electronic submission must clearly indicate the registrant on whose behalf such filing is made and the use of such user authentication in submitting such filing will constitute and become a substitute for the manual signature of the authorized signer. Any written notice filed must be followed up with direct communication to the regional office of Commission which has supervisory authority over the futures commission merchant whereby the Commission acknowledges receipt of the notice.

(5) After making a withdrawal requiring the approval and notice required in paragraphs (c)(1) and (c)(2) of this section, and before the next daily secured amount calculation, no futures commission merchant may make any further withdrawals from accounts holding 30.7 customer funds, except to or for the benefit of 30.7 customers, without, for each withdrawal, obtaining the approval required under paragraph (c)(1) of this section and filing a written notice with the Commission under paragraph (g)(4)(vi) of this section and its designated self-regulatory organization signed by the chief executive officer, chief finance officer, or other senior official. The written notice must:

(i) List the amount of funds provided to each recipient and each recipient's name;

(ii) Disclose the reason for each withdrawal;

(iii) Confirm that the chief executive officer, chief finance officer, or other senior official (and the identity of the person if different from the person who

signed the notice) pre-approved the withdrawal in writing;

(iv) Disclose the current estimate of the futures commission merchant's remaining total residual interest in the secured accounts holding 30.7 customer funds after the withdrawal; and

(v) Include a representation that to the best of the notice signatory's knowledge and reasonable belief the futures commission merchant remains in compliance with the secured amount requirements after the withdrawal.

(6) If a futures commission merchant withdraws funds that are not for the benefit of 30.7 customers from the separate accounts holding 30.7 customer funds, and the withdrawal causes the futures commission merchant to not hold sufficient funds in the separate accounts for the benefit of the 30.7 customers to meet its targeted residual interest, as required to be computed under §1.11 of this chapter, the futures commission merchant must deposit its own funds into the separate accounts for the benefit of 30.7 customers to restore the account balance to the targeted residual interest amount on the next business day, or, if appropriate, revise the futures commission merchant's targeted amount of residual interest pursuant to the policies and procedures required by §1.11 of this chapter. Notwithstanding the foregoing, if the futures commission merchant's residual interest in separate accounts for the benefit of 30.7 customers is less than the amount required to be maintained by paragraph (f) of this section at any particular point in time, the futures commission merchant must immediately restore the residual interest to exceed the sum of such amounts. Any proprietary funds deposited in the 30.7 customer accounts must be unencumbered and otherwise compliant with §1.25 of this chapter, as applicable.

(7) Notwithstanding any other provision of this part, a futures commission merchant may not withdraw funds from 30.7 accounts, except withdrawals that are made for the benefit of 30.7 customers, unless the futures commission merchant follows its policies and procedures required by §1.11 of this chapter.

(h) *Permitted investments and deposits of 30.7 customer funds.* (1) A futures commission merchant may invest 30.7 customer funds subject to, and in compliance with, the terms and conditions of § 1.25 of this chapter. Regulation 1.25 of this chapter shall apply to the investment of 30.7 customer funds as if such funds comprised customer funds or customer money subject to segregation pursuant to section 4d of the Act and the regulations thereunder.

(2) Each futures commission merchant that invests money, securities or property on behalf of 30.7 customers must keep a record showing the following:

(i) The date on which such investments were made;

(ii) The name of the person through whom such investments were made;

(iii) The amount of money or current market value of securities so invested;

(iv) A description of the obligations in which such investments were made, including CUSIP or ISIN numbers;

(v) The identity of the depositories or other places where such investments are maintained;

(vi) The date on which such investments were liquidated or otherwise disposed of and the amount of money received or current market value of securities received as a result of such disposition;

(vii) The name of the person to or through whom such investments were disposed of; and

(viii) A daily valuation for each instrument and readily available documentation supporting the daily valuation for each instrument. Such supporting documentation must be sufficient to enable third parties to verify the valuations and the accuracy of any information from external sources used in those valuations.

(3) Any 30.7 customer funds deposited in a bank or trust company located in the United States or in a foreign jurisdiction must be available for immediate withdrawal upon the demand of the futures commission merchant.

(4) Futures commission merchants that invest 30.7 customer funds in instruments described in § 1.25 of this chapter shall include such instruments in the computation of its secured amount requirements, required under

paragraph (1) of this section, at values that at no time exceed current market value, determined as of the close of the market on the date for which such computation is made.

(i) *Responsibility for § 1.25 investment losses.* A futures commission merchant shall bear sole financial responsibility for any losses resulting from the investment of 30.7 customer funds in instruments described in § 1.25 of this chapter. No investment losses shall be borne or otherwise allocated to the 30.7 customers of the futures commission merchant.

(j) *Loans by futures commission merchants; treatment of proceeds.* A futures commission merchant may lend its own funds to 30.7 customers on securities and property pledged, or from repledging or selling such securities and property pursuant to specific written agreement with such 30.7 customers. The proceeds of such loans used to purchase, margin, guarantee, or secure the trades, contracts, or commodity options of 30.7 customers shall be treated and dealt with by a futures commission merchant as belonging to such 30.7 customers. A futures commission merchant may not loan funds on an unsecured basis to finance a 30.7 customer's foreign futures and foreign options trading, nor may a futures commission merchant loan funds to a 30.7 customer secured by the 30.7 customer's trading account.

(k) *Permitted withdrawals.* A futures commission merchant may withdraw funds from 30.7 customer accounts in an amount necessary in the normal course of business to margin, guarantee, secure, transfer, or settle 30.7 customers' foreign futures or foreign option positions with a foreign broker or clearing organization. A futures commission merchant also may withdraw funds from 30.7 customer accounts to pay commissions, brokerage, interest, taxes, storage, and other charges lawfully accruing in connection with the 30.7 customers' foreign futures and foreign options positions.

(l) *Daily computation of 30.7 customer secured amount requirement and details regarding the holding and investing of 30.7 customer funds.* (1) Each futures commission merchant is required to prepare a Statement of Secured

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Amounts and Funds Held in Separate Accounts for 30.7 Customers Pursuant to Commission Regulation 30.7 contained in the Form 1-FR-FCM as of the close of each business day. Futures commission merchants that invest funds set aside as the foreign futures or foreign options secured amount in instruments described in §1.25 of this chapter shall include such instruments in the computation of its secured amount requirements at values that at no time exceed current market value, determined as of the close of the market on the date for which such computation is made. Nothing in this paragraph shall affect the requirement that a futures commission merchant at all times maintain sufficient money, securities and property to cover its total obligations to all 30.7 customers, in accordance with paragraph (a) of this section.

(2) A futures commission merchant may offset any net deficit in a particular 30.7 customer's account against the current market value of readily marketable securities, less deductions (*i.e.*, "securities haircuts") as set forth in Rule 15c3-1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 240.15c3-1(c)(2)(vi)), held for the same particular 30.7 customer's account in computing the daily Foreign Futures and Foreign Options Secured Amount. Futures commission merchants that establish and enforce written policies and procedures to assess the credit risk of commercial paper, convertible debt instruments, or nonconvertible debt instruments in accordance with Rule 240.15c3-1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 240.15c3-1(c)(2)(vi)) may apply the lower haircut percentages specified in Rule 240.15c3-1(c)(2)(vi) for such commercial paper, convertible debt instruments and nonconvertible debt instruments. The futures commission merchant must maintain a security interest in the securities, including a written authorization to liquidate the securities at the futures commission merchant's discretion, and must set aside the securities in a safekeeping account compliant with paragraph (c) of this section. For purposes of this section, a security will be considered "readily marketable" if it is traded on a "ready market" as de-

finied in Rule 15c3-1(c)(11)(i) of the Securities and Exchange Commission (17 CFR 240.15c3-1(c)(11)(i)).

(3) Each futures commission merchant is required to submit to the Commission and to the firm's designated self-regulatory organization the daily Statement of Secured Amounts and Funds Held in Separate Accounts for 30.7 Customers pursuant to Commission Regulation 30.7 required by paragraph (1)(1) of this section by noon the following business day.

(4) Each futures commission merchant shall file the Statement of Secured Amounts and Funds Held in Separate Accounts for 30.7 Customers pursuant to Commission Regulation 30.7 required by paragraph (1)(1) of this section in an electronic format using a form of user authentication assigned in accordance with procedures established or approved by the Commission.

(5) Each futures commission merchant is required to submit to the Commission and to the firm's designated self-regulatory organization a report listing the names of all banks, trust companies, futures commission merchants, derivatives clearing organizations, foreign brokers, foreign clearing organizations, or any other depository or custodian holding 30.7 customer funds as of the fifteenth day of the month, or the first business day thereafter, and the last business day of each month. This report must include:

(i) The name and location of each depository holding 30.7 customer funds;

(ii) The total amount of 30.7 customer funds held by each depository listed in paragraph (1)(5) of this section; and

(iii) The total amount of cash and investments that each depository listed in paragraph (1)(5) of this section holds for the futures commission merchant. The futures commission merchant must report the following investments:

(A) Obligations of the United States and obligations fully guaranteed as to principal and interest by the United States (U.S. government securities);

(B) General obligations of any State or of any political subdivision of a State (municipal securities);

(C) General obligation issued by any enterprise sponsored by the United

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States (government sponsored enterprise securities);

(D) Certificates of deposit issued by a bank;

(E) Commercial paper fully guaranteed as to principal and interest by the United States under the Temporary Liquidity Guarantee Program as administered by the Federal Deposit Insurance Corporation;

(F) Corporate notes or bonds fully guaranteed as to principal and interest by the United States under the Temporary Liquidity Guarantee Program as administered by the Federal Deposit Insurance Corporation; and

(G) Interests in money market mutual funds.

(6) Each futures commission merchant must report the total amount of customer-owned securities held by the futures commission merchant as 30.7 customer funds and must list the names and locations of the depositories holding customer-owned securities.

(7) Each futures commission merchant must report the total amount of 30.7 customer funds that have been used to purchase securities under agreements to resell the securities (reverse repurchase transactions).

(8) Each futures commission merchant must report which, if any, of the depositories holding 30.7 customer funds under paragraph (1)(5) of this section are affiliated with the futures commission merchant.

(9) Each futures commission merchant shall file the detailed list of depositories required by paragraph (1)(5) of this section by 11:59 p.m. the next business day in an electronic format using a form of user authentication assigned in accordance with procedures established or approved by the Commission.

(10) Each futures commission merchant shall retain its daily secured amount computation, the Statement of Secured Amounts and Funds Held in Separate Accounts for 30.7 Customers pursuant to Commission Regulation 30.7 required by paragraph (1)(1) of this section, and the detailed list of depositories required by paragraph (1)(5) of this section, together with all supporting documentation, in accordance

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with the requirements of §1.31 of this chapter.

[78 FR 68648, Nov. 14, 2013]

§ 30.8 [Reserved]

§ 30.9 Fraudulent transactions prohibited.

It shall be unlawful for any person, by use of the mails or by any means or instrumentality of interstate commerce, directly or indirectly, in or in connection with any account, agreement or transaction involving any foreign futures contract or foreign options transaction:

(a) To cheat or defraud or attempt to cheat or defraud any other person;

(b) To make or cause to be made to any other person any false report or statement thereof or to enter or cause to be entered for any person any false record thereof;

(c) To deceive or attempt to deceive any other person by any means whatsoever in regard to any such account, agreement or transaction or the disposition or execution of any such account, agreement or transaction or in regard to any act of agency performed with respect to such account, agreement or transaction; or

(d) To bucket any order, or to fill any order by offset against the order or orders of any other person or without the prior consent of any person to become the buyer in respect to any selling order of such person, or become the seller in respect to any buying order of such person.

§ 30.10 Petitions for exemption.

(a) Any person adversely affected by any requirement of this part may file a petition with the Secretary of the Commission, which petition must set forth with particularity the reasons why that person believes that he should be exempt from such requirement. The Commission may, in its discretion, grant such an exemption if that person demonstrates to the Commission's satisfaction that the exemption is not otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought. The petition will be granted or denied on the basis of the papers filed. The petition may be granted subject to